

Re-use, Reversioning and Permanent Availability

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13.1 Introduction

The BBC's archives are a great national record. The archives include content that was broadcast or published in the past, which we may wish to re-use (either in full or in part) and also content that, from the outset, has been continuously accessible. They are an important, useful and valuable resource and we should make them available where possible.

This section outlines the additional steps that should be taken when content is re-used or reversioned whether by the BBC or a third party. The section also addresses how to manage the archive of BBC's online content which in most cases is published with the expectation that it will be made permanently¹ available.

Content within the archives is made to BBC editorial standards in effect at the time of its original production and, with the passage of time, those standards may change. When re-using content we must take account of the Editorial Guidelines in effect now.

We have a continuing responsibility to respect privacy and to be fair to contributors.

The integrity of the archive means we should only remove or amend online, including on-demand, content in exceptional circumstances. Where we let others use our archive content, we must ensure that they do so in ways that do not compromise the BBC's impartiality, editorial integrity and independence.

¹ The sections of the Ofcom Broadcasting Code that relate to this are 2: Harm and Offence, 5: Due Impartiality and Due Accuracy and Undue Prominence of Views and Opinions, 7: Fairness and 8: Privacy.

13.2 Mandatory Referrals

(Mandatory Referrals are part of the BBC's editorial management system. They are an essential part of the process to ensure compliance and must be observed.)

Referrals to Director Editorial Policy and Standards

13.2.1 Requests from third parties for access to unused material, including notes, rushes or audio recordings, should normally be referred to Director Editorial Policy and Standards or a delegated representative.

See 13.3.31

13.2.2 All requests for untransmitted or otherwise unused material – including notes – from the police or in connection with court proceedings, possible court proceedings or other procedures in which the material may be regarded as evidence (such as disciplinary hearings by regulatory bodies), must be referred to Programme Legal Advice and Director Editorial Policy and Standards.

See 13.3.35

Other Referrals

13.2.3 Any proposal to use archive content that has previously been found in breach of editorial standards or content regulation codes must be referred to Editorial Policy.

See 13.3.1

13.2.4 Any proposal to use a light touch method of compliance for large scale release of archive content must be referred to Editorial Policy.

See 13.3.7

13.2.5 Any proposal to use potentially distressing archive content against the wishes of the relevant

contributors, victims or the immediate family of dead people must be approved by a senior editorial figure, or for independent production companies by the commissioning editor, who should normally consult Editorial Policy.

See 13.3.13

- 13.2.6** Programme Legal Advice must be consulted about any proposed use of archive material of a crime if potentially related court proceedings are pending or in progress.

See 13.3.17

- 13.2.7** Any plans to re-use, reversion or make available content featuring members of the Royal Family or the Royal Palaces must be referred to the BBC's Royal Liaison Officer. This does not apply to news content showing members of the Royal Family carrying out public duties.

See 13.3.18

- 13.2.8** Any proposal to remove online content from the archive, whether it is published on a BBC site or syndicated elsewhere, must be referred to the relevant senior editorial figure, or for independent production companies to the commissioning editor, who may consult Editorial Policy.

See 13.3.25

- 13.2.9** Heads of Editorial Standards must be consulted over the wording of programme-specific explanations for a Revocation, Revision or Correction Label.

See 13.3.27

- 13.2.10** Requests to remove mothballed pages with a banner headline stating the page has not recently been updated, must be referred to the Managing Editor, BBC Online.

See 13.3.28

13.2.11 All requests for transmitted content in connection with court proceedings, or other procedures in which the material may be regarded as evidence, must be referred to Programme Legal Advice and Editorial Policy.

See 13.3.29

13.3 Guidelines

General

13.3.1 The re-use, reversioning and making available of archive content must take account of findings of breaches of editorial standards by the BBC's Executive Complaints Unit, the BBC Trust or other predecessors, and of code breaches recorded by Ofcom or previous regulators. **Any proposal to use archive content that has been found in breach must be referred to Editorial Policy** who will consider whether:

- there has been a change in standards since the original finding
- the content could be released if it was edited and/or additional information was given.

13.3.2 Editorial content originally broadcast/published in the UK that is re-used internationally may not be appropriate for re-use in all territories around the world out of duty of care to international contributors or BBC staff.

13.3.3 Where appropriate it should be made clear to audiences when content is not contemporaneous. Labels, first transmission dates, contextual information or other signalling may be required to make clear when content is archive in order to avoid misleading audiences.

13.3.4

When we re-use/reversion content we should take account of its original context and should not normally misrepresent it. There may be editorially justified exceptions, such as where archive is used for a comedic/satirical purpose. However, fairness and harm and offence considerations apply.

We should be alert to legal copyright, data protection issues and the legal right to privacy.

13.3.5

While respecting that archive content is a record of history, we must consider whether it is appropriate to release it unedited or whether this would breach the Editorial Guidelines or the law.

It may be appropriate to indicate when archive content has been edited or removed, in order to make audiences aware that a record has been changed.

13.3.6

Access or location agreements should be reviewed before archive content is made available as there may be special conditions for re-use.

13.3.7

With large scale release of collections of archive content it may be acceptable to adopt a light touch method of compliance, where overall risks of breach of standards are mitigated by identifying parts of the collection which must be excluded or complied in full. When it is broadcast or published there should be a route for the public to get in touch and for a rapid response to take place if necessary.

Any proposal to use a light touch method of compliance for large scale release of archive content must be referred to Editorial Policy who will take into account:

- the nature of the content and whether it could be considered controversial
- whether the proposed compliance arrangements are appropriate for that content.

13.3.8

Unless content is specifically made available only for a limited time period, there is a presumption that material published online will become part of a permanently accessible archive and should be preserved in as complete a state as possible.

See Section 13 Re-use, Reversioning and Permanent Availability: 13.3.22-13.3.28

Accuracy Issues

13.3.9

Archive content should not be used in a way that materially misleads the audience about a situation, events or what is being depicted. Labelling may be required.

See Section 3 Accuracy: 3.3.16

Editorial content that we plan to re-use or reversion may have become inaccurate and some information which new research has revealed to be out of date may put people at risk if followed. If release of such information is editorially justified, it must be made clear to audiences that it is archive.

13.3.10

We must check whether archive content that is planned for repeat has been overtaken by events, including the known death of a contributor, the charging of an offender, or significant life changes. Where appropriate, information should be given, or content should be edited or removed.

See Section 3 Accuracy: 3.3.27

Fairness, Consent and Privacy Issues

13.3.11

Before content is re-used or reversioned, we must check any relevant available contributor consents and observe any restrictions on the re-use of the content, unless we are able to establish that circumstances have changed since the restrictions were imposed, so that they no longer apply.

See Section 6 Fairness to Contributors and Consent: 6.3.1

13.3.12

Archive content involving contributors in the following ways may become more sensitive over time:

- suffering illness, death or emotional trauma
- disclosing sensitive personal information
- featured as children when they were unable to give informed consent.

We must consider how to minimise possible distress to surviving contributors when we re-use, reversion or make available such content.

13.3.13

When use of the archive may cause distress to the contributors, victims or the immediate family of dead people featured they should normally be notified of our plans for re-use so far as is reasonably practicable.

If they object to re-use, any proposal to do so must be approved by a senior editorial figure, or for independent production companies by the commissioning editor, who should normally consult Editorial Policy. Approval will only be given if the objections are outweighed by the public interest².

13.3.14

We should only re-use archive content of identifiably grieving or distressed people when there is editorial justification. The circumstance, location, length and intimacy of the sound/image should be weighed against the public interest in re-using the content.

See Section 7 Privacy: 7.3.41-7.3.45

13.3.15

Re-use of factual content in dramas and drama-documentaries must be editorially justified and must not create unfairness.

It should not cause unjustified embarrassment, surprise or offence to identifiable people featured in the archive or their living close relatives.

See Section 6 Fairness to Contributors and Consent: 6.3.23 and Section 5 Harm and Offence: 5.3.32

² See Section 1 The BBC's Editorial Standards: 1.3 The Public Interest.

For portrayal of real people in drama see Fairness to Contributors and Consent.

See Section 6 Fairness to Contributors and Consent: 6.3.51-6.3.52

13.3.16 Secretly Recorded Content

Secretly recorded content may infringe privacy and/or reveal wrongdoing. The editorial justification for re-use must assess the public interest³ in re-release.

See Section 7 Privacy: 7.3.10-7.3.21

13.3.17 Content Depicting Illegal or Anti-Social Activity

The use of archive material relating to crimes and to victims of crime must be editorially justified.

When releasing archive content relating to crimes, victims of crime and anti-social activity we should:

- avoid repeated use of the same incident to illustrate a general theme
- not use archive content of one identifiable crime to illustrate another
- take care when using archive shots of prisoners to illustrate a specific crime or type of crime. Individuals should not be identifiable if they were not involved in the crime in question
- be aware that while content depicting illegal or anti-social behaviour may have a clear public interest purpose on first transmission, this public interest may diminish with the passage of time, and any re-broadcast/publication after first transmission must be considered case by case.

Programme Legal Advice must be consulted about any proposed use of archive material of a crime if potentially related court proceedings are pending or in progress.

See Guidance online: Re-use of Factual Content Featuring Illegal or Anti-Social Behaviour

³ See Section 1 The BBC's Editorial Standards: 1.3 The Public Interest.

13.3.18

Royal Archive Content

Content featuring members of the Royal Family or the Royal Palaces is often subject to specific contractual arrangements, especially when the BBC has been given privileged access.

Any plans to re-use, reversion or make available such archive content must be referred to the BBC's Royal Liaison Officer. This does not apply to news content showing members of the Royal Family carrying out public duties.

Harm and Offence Issues

13.3.19

Archive content that is made available, re-used or reversioned must take account of the standards of the Editorial Guidelines on Harm and Offence. In assessing appropriateness for re-use we should consider:

- changes in public attitudes to potentially offensive content, including nudity, language, portrayal, alcohol, illegal drug use and smoking
- any change in service or timeslot which would have an effect on audience expectations
- the way that BBC output may be discovered online, via links or embedding on other sites, means that users may not always be prepared for the content they find. They may not immediately realise that it is archive, possibly increasing the risk of offence
- current events and circumstances which may make release inappropriate.

13.3.20

When archive content would not normally be broadcast by the BBC today because standards or attitudes have changed, there may be reasons to make it available now including if it is of historical or cultural interest or if it is otherwise editorially justified in the public interest. However, the content should be appropriately scheduled and/or signposted.

See Section 5 Harm and Offence: 5.1

Some content relating to past events remains controversial or sensitive.

13.3.21

We must ensure that the use of traumatic archive content, particularly when it features identifiable people, is editorially justified. It should never be used as ‘wallpaper’. Any restrictions placed on re-use must be observed.

See Guidance online: Removal of BBC Online Content

Managing Online Content

13.3.22

At the time that editorial content is posted online, the editorial managers responsible for its creation should decide on a strategy for its management over time. They should consider how frequently pages need to be updated or how they are to be treated if they are not to be updated.

13.3.23

To avoid materially misleading users, it should normally be clear when the content they are accessing was first published and, where relevant, when it was last updated significantly.

Pages may be given a date stamp from the moment of publication and/or they may be labelled as archived with a banner stating that the page is no longer being updated.

13.3.24

When a material change is made to content, the change should normally be indicated to users unless there are, exceptionally, reasons, including legal or editorial, not to do so.

13.3.25

The archive of the BBC’s online content is a permanent public record and its existence is in the public interest. The online archive, particularly news reports, should not normally be removed or amended.

Where there is an expectation that content, from a name to a whole programme, is made available permanently, it should only be removed in exceptional circumstances.

These may include legal reasons, safety risks to individuals or a serious breach of editorial standards that cannot be rectified except by removal of material; or where tragic events during the catch-up period make a programme containing similar content unsuitable for continued publication.

Any proposal to remove online content from the archive, whether it is published on a BBC site or syndicated elsewhere, must be referred to the relevant senior editorial figure, or for independent production companies to the commissioning editor, who may wish to consult Editorial Policy. They should consider:

- the potential harm of removal to the public interest⁴ and the integrity of the archive or catch-up service
- any significant harm or distress continued publication may cause an individual to whom we have a duty of care
- whether any content we are considering removing is already circulating widely on the internet. If it is, removal may be ineffective
- whether information has been put in the public domain other than by the BBC or is available in public records. If so, we should normally refuse requests to remove it.

Where there may be legal repercussions, any proposals to remove online content should normally be referred to Programme Legal Advice (who may consult Information Rights where content contains personal information that might identify a living person).

⁴ See Section 1 The BBC's Editorial Standards: 1.3 The Public Interest.

13.3.26

Requests to remove content where contributors to the BBC complain that they did not give consent to their contribution appearing online or being made available in perpetuity should normally be refused, providing they gave informed consent to one part of the BBC and their safety is not endangered by the content's presence.

13.3.27

Requests to remove comments and other social media content should also normally be refused as long as the BBC's terms and conditions or privacy policy published at the time provide adequate protection.

As removal is a last resort, we should not normally hide or remove content while we consider requests, unless there are legal or editorial reasons to do so.

No one below Executive Producer, or relevant senior editorial figure should initiate removal, revocations or revisions to our online content.

Heads of Editorial Standards must be consulted over the wording of programme-specific explanations for a Revocation, Revision or Correction Label.

The Press Office should be informed if a Revocation, Revision or Correction label and explanation is to be applied.

13.3.28

Requests to remove mothballed pages with a banner headline stating the page has not recently been updated, must be referred to the Managing Editor, BBC Online who will consider whether, exceptionally, to remove the page that is a public record.

External Requests for BBC Content⁵

13.3.29

Transmitted Content

All requests for transmitted content in connection with court proceedings, or other procedures in which the material may be regarded as evidence, must be referred to Programme Legal Advice and Editorial Policy. Editorial Policy will consider whether accepting the request would compromise the BBC's impartiality, editorial integrity or independence.

13.3.30

For other external requests for editorial content, when deciding whether it is appropriate to release content to a third party we should take into account:

- any copyright, legal, contractual and editorial implications
- whether the content is controversial, sensitive, does not meet today's generally accepted standards or could affect the privacy of a contributor if released
- the nature of the third party
- whether this is a contributor request for material relating to the original contribution
- whether there is an existing external relationship, including whether the organisation is a partner
- whether the use would be commercial and/or should be handled by a BBC commercial subsidiary
- whether the use would be non-commercial, including educational or for training purposes, for data journalism or otherwise in the public interest.

For non-commercial use we should normally charge a fee which reflects the cost of providing the content and normally require a licence or other written agreement setting out how it can be used.

⁵ This section of the Editorial Guidelines, covering both transmitted and untransmitted content, does not apply where there is a statutory requirement to produce content, for example to Ofcom.

Use of BBC content by third parties must not compromise the BBC's impartiality, editorial integrity and independence.

A BBC website sets out how the public can request content⁶.

See Section 16 External Relationships and Financing: 16.3.21-16.3.22

13.3.31

Untransmitted Material

Requests from third parties for access to unused material, including notes, rushes or audio recordings, should normally be referred to Director Editorial Policy and Standards or a delegated representative who will consider:

- the public interest
- whether release would compromise the BBC's impartiality, editorial integrity or independence and
- the proposed use of the material.

See Section 13 Re-use, Reversioning and Permanent Availability: 13.3.29-13.3.30

13.3.32

Any proposal to give a contributor's personal details, comments or other personal information to a third party without the contributor's consent should be referred to a senior editorial figure, or for independent production companies to the commissioning editor, who should normally consult Programme Legal Advice.

13.3.33

We must never agree to provide access to unused material:

- when to do so would endanger people who work for the BBC
- when it would make it more difficult to gather such material in the future
- if the requests appear to be fishing for evidence

6 Can I Use BBC Content? website

- if the material contains information that identifies a confidential source or contributor
- when it conflicts with our contractual obligations
- when the rights of third parties may be impaired by handing it over.

13.3.34

The BBC will only release untransmitted material to individuals or organisations for public relations, marketing or commercial purposes in exceptional circumstances, and when its editorial integrity and independence can be maintained.

13.3.35

All requests for untransmitted or otherwise unused material – including notes – from the police or in connection with court proceedings, possible court proceedings or other procedures in which the material may be regarded as evidence (such as disciplinary hearings by regulatory bodies), must be referred to Programme Legal Advice and Director Editorial Policy and Standards.

The BBC will not normally hand over unused material in such circumstances, including to the police, without a court order. Sometimes it is appropriate to accede to such an order; at other times it will be necessary to contest it and appeal it to higher courts.

There is no legal obligation for us to keep documents, records or unused material unless and until they are the subject of a request from the police or the courts or there is a realistic threat of litigation.

